

**AMENDMENTS TO THE CLAIMS**

Claims 1-8 are cancelled.

9. (currently amended) An apparatus for sampling fluid from a formation comprising:
  - (a) a tool disposed conveyed on a drill string in a well borehole surrounded by the formation;
  - (b) a fluid moving device at a surface location coupled to the tool for delivering a first fluid through the tool, the first fluid comprising a drilling fluid, the first fluid exiting the tool at a distal end and returning as a return fluid to the surface location in an annulus between the tool and a borehole wall, the return fluid including the first fluid and formation fragments;
  - (c) a fluid-diverting device for directing the first fluid from within the tool toward a portion of the borehole wall for diverting the fragments in the return fluid away from the wall portion;
  - (d) a pad member disposed on the tool, the pad member being moveable in relation to the wall portion for sealing said wall portion from the annulus; and
  - (e) a first port exposed to the sealed wall portion for sampling formation fluid.
10. (cancelled)
11. (original) The apparatus of claim 9, further comprising a pressure control device for controlling pressure of the diverted first fluid to remove at least some mudcake from the wall portion.
12. (original) The apparatus of claim 9, wherein the fluid-diverting device is coupled to the first port and the first fluid is directed toward the wall portion through the first port.
13. (original) The apparatus of claim 9, wherein the tool further comprises at least one second port coupled to the fluid diverting device and the first fluid is directed toward the wall portion through the at least one second port.

14. (original) The apparatus of claim 13, wherein tool further comprises a first extendable probe, the pad being disposed on the extendable probe and the at least one second port is disposed spaced apart from the extendable probe.
15. (original) The apparatus of claim 13, wherein the tool further comprises an extendable member spaced apart from the pad member, the at least one second port being disposed on the extendable member.
16. (original) The apparatus of claim 15, wherein the extendable member is selected from a group consisting of (i) an extendable probe, (ii) an extendable stabilizer blade, and (iii) a steering rib.
17. (original) The apparatus of claim 9, wherein the tool further comprises at least one second port coupled to the fluid diverting device, the first port and at least one second port being disposed on the pad member and the first fluid is directed toward the wall portion through the at least one second port.
18. (original) A formation testing while drilling system comprising:
  - (a) a drilling rig for drilling a well borehole into the earth, the rig including a mud circulation system for flowing drilling fluid through a drill string;
  - (b) a tool disposed on the drill string and conveyed in the borehole, wherein the drilling fluid flows through the drill string and through the tool, the drilling fluid exiting the drill string at a distal end and returning as a return fluid to the surface location in an annulus between the drill string and a borehole wall, the return fluid including the drilling fluid and formation fragments;
  - (c) a fluid diverting device in the tool for directing the drilling fluid from within the tool toward a portion of the borehole wall for diverting the fragments in the return fluid away from the wall portion;
  - (d) a pad member disposed on the tool, the pad member being moveable in relation to the wall portion for sealing said wall portion from the annulus;
  - (e) a first port exposed to the sealed wall portion for sampling formation fluid; and
  - (f) a surface controller for controlling at least a portion of a drilling operation including formation testing.

19. (original) The system of claim 18, wherein the tool further comprises a pressure control device for controlling pressure of the diverted first fluid to remove at least some mudcake from the wall portion.
20. (original) The system of claim 18, wherein the fluid-diverting device is coupled to the first port and the first fluid is directed toward the wall portion through the first port.
21. (original) The system of claim 18, wherein the tool further comprises at least one second port coupled to the fluid diverting device and the first fluid is directed toward the wall portion through the at least one second port.
22. (original) The system of claim 21, wherein tool further comprises a first extendable probe, the pad being disposed on the extendable probe and the at least one second port is disposed spaced apart from the extendable probe.
23. (original) The system of claim 21, wherein the tool further comprises an extendable member spaced apart from the pad member, the at least one second port being disposed on the extendable member.
24. (original) The system of claim 23, wherein the extendable member is selected from a group consisting of (i) an extendable probe, (ii) an extendable stabilizer blade, and (iii) a steering rib.
25. (original) The system of claim 18, wherein the tool further comprises at least one second port coupled to the fluid diverting device, the first port and at least one second port being disposed on the pad member and the first fluid is directed toward the wall portion through the at least one second port.